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ADDITIONAL FEE

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REMARKS

Favorable reconsideration of this application as presented herein is respectfully requested. Claims 1-9 remain in this application.

In the Office Action dated June 17, 2002, the pending claims 1-9 of the current application were rejected based on a statutory type (35 U.S.C. § 101) double patenting rejection over U.S. Patent No. 2002/0033050. A rejection based on statutory double patenting of the "same invention" finds its support in the language of 35 U.S.C. § 101, which states that "whoever invents or discovers any new and useful process . . . may obtain a patent therefore. . . ." (Emphasis added.) This statutory language has been interpreted to bar multiple patents directed to the "same invention".

It is respectfully pointed out that the U.S. Patent No. 2002/0033050 is a laid-open publication of the present patent application no. 09/843,046. Consequently, because it is a publication of the very same pending patent application and not a separate patent or application, it cannot be considered a prior art to itself and may not form basis for a statutory (or judicially created) double patenting rejection.

Applicant respectfully requests reconsideration of the rejection in view of

the arguments presented in this Amendment & Response and an early favorable action on the merits.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail under 37 C.F.R. 1.8 in an envelope addressed to:

Assistant Commissioner for Patents, United States Patent and Trademark Office, Washington, D.C. 20231.

DATE: September 6, 2002

NAME: Tammy Parubchenko

SIGNATURE: 

Respectfully submitted,

By Daniel Basov
Daniel Basov, Esq.
Reg. # 42,303
Chadbourn & Parke LLP
30 Rockefeller Plaza
New York, New York 10112
(212) 408-5275

Attorneys for Applicant

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